

CONTRACTING



Senior Transportation Officer Qualification Course Contracting

Motivator

Contracting bridges the gaps that may occur with military logistics by augmenting any existing logistics support capabilities. Using contractors is a force multiplier.

The Army relies on contractor support for just about every mission. The key to effective contractor support is ensuring contractors follow the contract requirements.

Accordingly, commanders, staffs, and Soldiers must be more familiar with how to plan for and use contractors effectively.

The Contracting Officer's Representative (COR) closely monitors contract performance and provides the contracting officer with documentation to identify the contractor's compliance or noncompliance with the terms and conditions of the contract.

Contractors have always accompanied our armed forces.

However, the increasingly hi-tech nature of our equipment and rapid deployment requirements has significantly increased the need to properly integrate contractor support into all military operations.

While contractors consistently support deployed armed forces, commanders need to fully understand their role in planning for and managing contractors on the battlefield and to ensure that their staff is trained to recognize, plan for, and implement contractor requirements.

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Lead-in

Contracting supplements or augments the existing logistics support capabilities of U.S. Forces during peacetime and for contingency deployment, sustainment, and redeployment.

As a Senior Transportation or Logistics Officer, your understanding of the contracting process will greatly contribute to a Contingency Contracting Officer's effort to acquire products and services from contractors.

After receiving technical and background logistical information and evaluation from a knowledgeable Logistics Officer, the Contingency Contracting Officer (CCO) can best evaluate potential contractors, their proposals, and level of performance in satisfying government requirements.

Contracting is an important and ever-present fact of life in the increased deployment activities witnessed over the last two decades.

Logistics Officers are often called in to provide their technical expertise to the planning and evaluation of both contracts and the supervision of contractors.

In this one area, fraud and abuse of government funds and equipment, which can seriously hamper overall mission accomplishment, can be minimized through intelligent monitoring and oversight during negotiations with Host Nation and private civilian contractor representatives.

LEAD-IN



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Purpose

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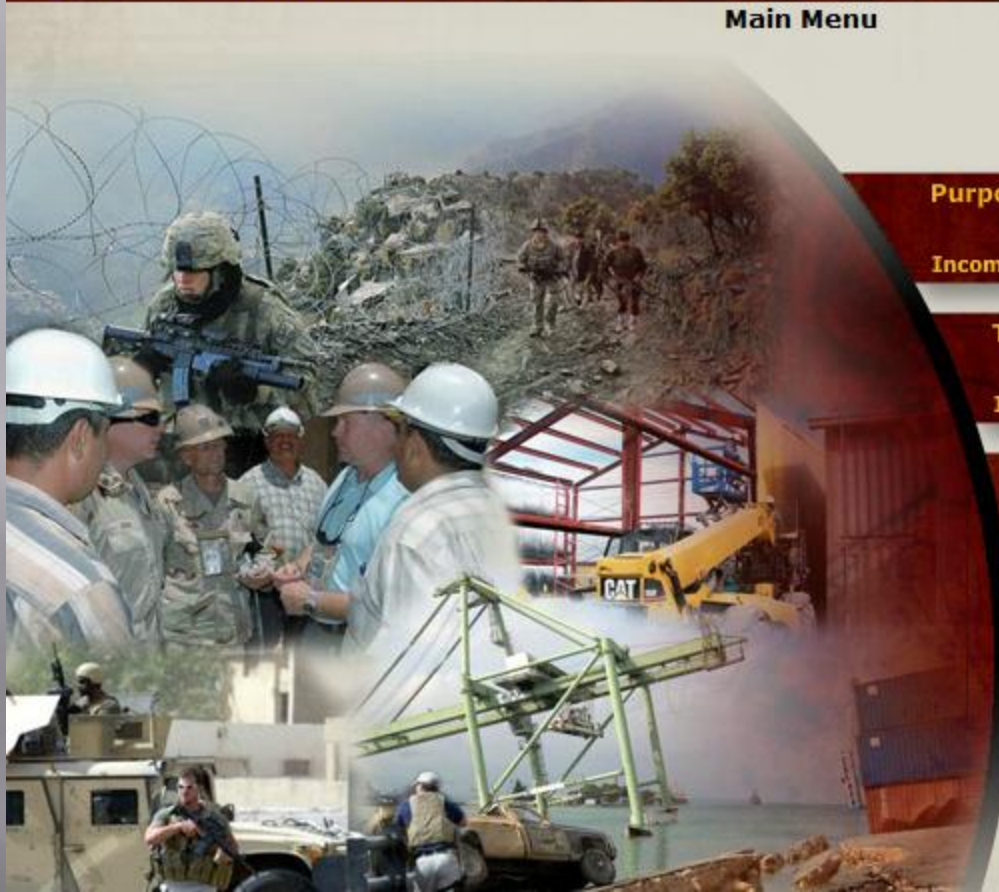
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What is Contracting?

From Valley Forge to Afghanistan's Korengal Valley, civilian contractor and logistics specialists have served shoulder to-shoulder with Soldiers, pitching in to keep equipment operating and supplies flowing.

The Federal Acquisition Regulation (FAR paragraph 2.101) defines contracting as: *"Purchasing, renting, and leasing or otherwise obtaining supplies or services from non-federal sources."*

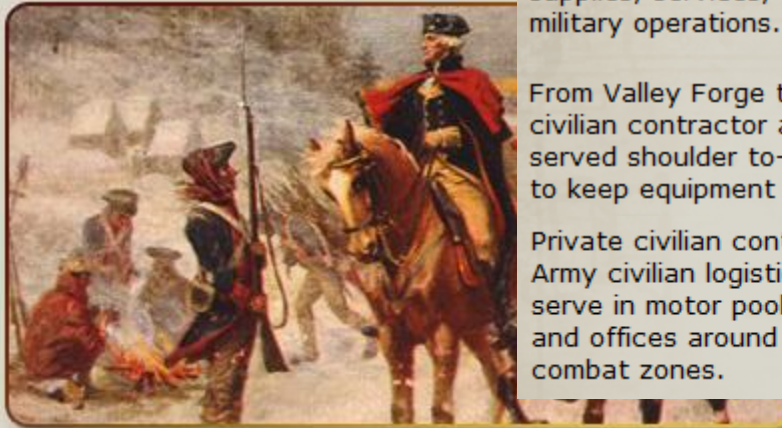
Contingency contracting is to responsively, effectively, and legally contract for, or to contract for the providing of, the supplies, services and construction necessary to support the mission organization.

All contracts are legally enforceable agreements between two or more parties for the exchange of goods or services; it is the vehicle through which the military details the tasks that it wants a contractor to accomplish and what will be provided to the contractor in return for the goods or services.

Contracting is the overall process used to obtain supplies, services, and construction in support of military operations.

From Valley Forge to Afghanistan's Korengal Valley, civilian contractor and logistics specialists have served shoulder to-shoulder with Soldiers, pitching in to keep equipment operating and supplies flowing.

Private civilian contractors and Department of the Army civilian logistics assistance representatives serve in motor pools, hangars, maintenance shops, and offices around the world, including those within combat zones.



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Goal of Contracting

In support of expeditionary operations, commanders must have timely situational awareness of contracts, contractor personnel, and assets on the battlefield, to properly plan, synchronize operations, and manage the supply chain.

To meet this goal, logisticians should accomplish the following to effectively support the Warfighter:

- Understand the processes involved in using contractors on the battlefield. (theater-based training)
- Complete the Army Logistics University (ALU) - Defense Acquisition University (DAU) Contracting Officer's Representative (COR) course.
- Include the effective use of contractors in logistics annexes to operation plans.
- Be flexible in a rapidly changing logistics environment, by doing such things as leveraging and synchronizing both organic and contracted sources of supplies.



Contractors are now part of force deployment, and as such, they must be included at all levels of logistics planning and training.

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Contract Phases

The Contracting process consists of three basic phases:

- **Contract Planning Phase**
- **Contract Formation Phase**
- **Contract Management Phase**

Contract Planning Phase:

- Determine the need (product or services) - this is the first and most critical step in the acquisition process.
- Analyze the acquisition requirements - (justifications, authorizations, cost estimates, schedules, and determine priorities).
- Plan to evaluate proposals - factors include technical requirements, cost or price, past performance (performance work statement) or the statement of work (SOW).
- Provide the contingent contracting officer (CCO) with technical knowledge or background information to assist in preparing the solicitation.
- Establish government requirements by using a request for proposal (RFP) to prospective contractors.

Contract Formation Phase:

- Receipt and management of proposals must be safeguarded (ethics).
- Perform Bid and Proposal evaluation by the acquisition and technical teams for acceptability.
- Review by contracting officer of contractor proposals or revisions (no discussion of other contractor proposals: ethics).

Contract Planning Phase

Determine need

Analyze requirement

Determine extent of competition

Source selection plan

Solicitation terms and conditions

Contract Formation Phase

Solicitation of offers

Bid evaluation

Proposal evaluation and negotiation

Contract award

Contract Management Phase

Initiation of work and contract administration

Inspection and quality assurance

Modifications if needed

Acceptance invoice payment

Contract closeout or termination

Contract Management Phase:

- Monitor contractor work quality and costs (protect government's interest).
- Enter all contractors authorized to accompany the force (CAAF) into the Synchronized Predeployment Operational Tracker (SPOT) database.
- Issue letter of authorization (LOA) - spells out DoD authorizations to the contractor and deployment timeline.
- Manage vouchers, invoices, payments, and changes or modifications to the contract.

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The Acquisition Team

The Acquisition Team consists of all participants in the acquisition process, to include the:

- Requiring activity - unit that requested initiation of the requirement (goods or services).
- Financial Management (FM) detachment - processes military/civilian pay, travel expenses (sustain Soldiers in the field).
- Resource manager - principal financial management advisor to the commander.
- Contracting officer - only one authorized to enter into, administer and/or terminate contracts (Acquisition Team Leader).
- Field ordering officer (FOO) - appointed by contracting officer to negotiate with vendors for goods/services; interfaces with the requiring activity, the contractor, and the contracting officer.
- Paying agent (formerly called Class A agent) - appointed by a disbursing officer from FM to make payments to vendors.



As part of the Acquisition Team, Field Ordering Officers negotiate with vendors for goods and/or services to meet the needs of the requiring activity, and the paying agents make the payment to the vendor, then safeguard and account for cash and/or payment documents.

Separating duties in this manner protects against errors, theft, and fraud to ensure ethical conduct.

Caution

A field ordering officer may not hold the additional duty of paying agent, property book officer, or property accounting officer. Likewise, a paying agent may not hold the additional duty of a field ordering officer, property book officer, or property accounting officer.

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What is a Contractor?

A military contractor can be a large business organization or an individual (such as the truck driver shown here) that provides products or services to U.S. Forces during peacetime and contingency operations.

They serve as force-multipliers by providing products, typically military aircraft, ships, vehicles, weaponry, and electronic systems.

Services provided can include logistics, technical support and training communications support, and in some cases, team-based engineering in cooperation with government identified needs and requirements.

Military contractors do not generally provide direct support of military operations.

At the conclusion of operations, contractors can also facilitate early redeployment or retrograde of military equipment and personnel.



In one form or another, contractors have been part of the battlefield since the American Revolution.

In the initial stages of an operation, supplies and services provided by contractors improve response time and free strategic airlift and sealift for other priorities.

Contractor support drawn from in-theater resources can augment existing support capabilities to provide a new source for critically needed supplies and services, thereby reducing dependence on the Continental United States (CONUS) based support system.

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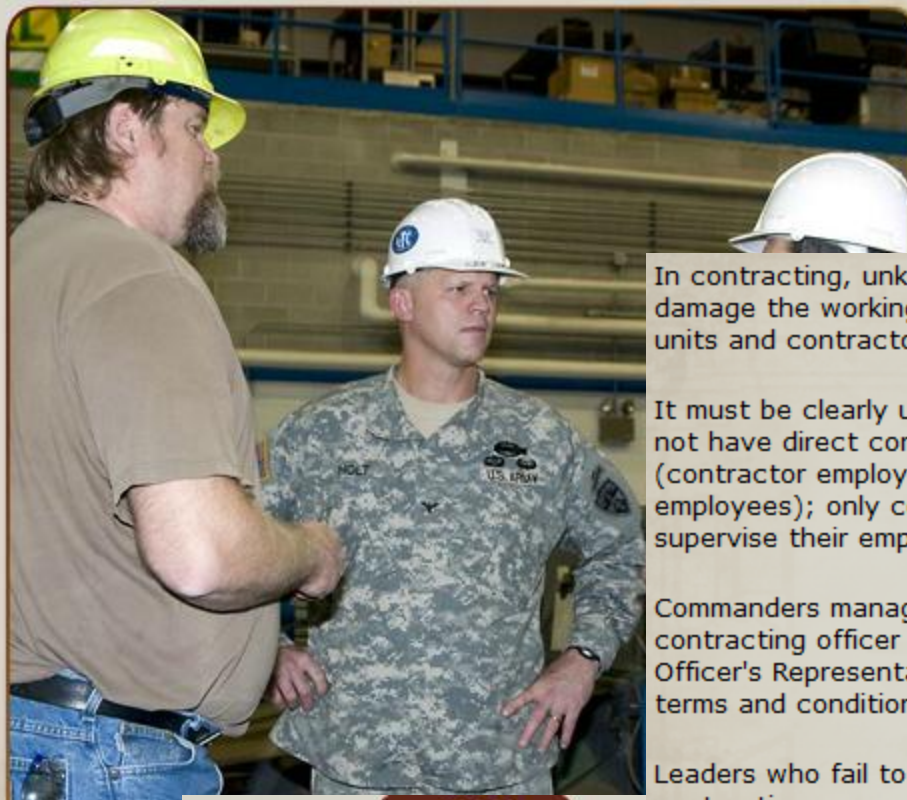
The Contractor's Role

Understanding the contractor's role and purpose in theater, and treating them as if they are part of a military unit is important for Soldiers.

Planning for contractor support is an integral part of the planning for any operation and follows the same process as any other aspect of a military operation.

Failing to understand the importance of contractor support can lead to potential problems, such as understanding the difference between augmentation support and operational control (OPCON).

What Soldiers often fail to understand is that contractor employees are supervised by contractor managers and not by the military. This administrative control of employees is probably the most significant misunderstanding in military and contractor relationships.



In contracting, unknown roles and responsibilities damage the working relationship between military units and contractors on the battlefield.

It must be clearly understood that commanders do not have direct control over contractor employees (contractor employees are not government employees); only contractors directly manage and supervise their employees.

Commanders manage contractors through the contracting officer and their appointed Contracting Officer's Representatives in accordance with the terms and conditions of the contract.

Leaders who fail to educate themselves on the contracting process run the risk of logistics failure.

Augmentation

Under the augmentation support role, military functional areas are supplemented with civilian contractors who perform functions and services specified by the Government. However, the contractor maintains supervision of all prime and subsidiary contracted employees.

OPCON

In an operational control (OPCON) environment, the contractor has total operational control in performing functions and services specified by the Government. The contractor is responsible for all technical aspects of the mission as well as administrative matters for all civilian employees.

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Contracting Terminology

These are the major terms that are used during contract design and procurement:

- **Procurement Integrity Act**
- **Statement of Work (SOW)**
- **Performance Work Statement (PWS)**
- **Acquisition**
- **Contingency contracting**
- **Contracting Officer**
- **Contracting Officer's Representative**

Contract writers must avoid using vague verbiage (i.e., use "shall", not "will") and avoid technical jargon and abbreviations.

Standard contract language is referenced in the DoD Acquisition Deskbook Supplement, Contractor Support in the Theater of Operations.

Contract terms and writing guidance can be referenced in the handbook: *Center for Army Lessons Learned (CALL), Combined Arms Center (CAC), Deployed Contracting Officer's Representative, Tactics, Techniques, and Procedures, September 2008*, in the reference section.

Precise language usage and clarity of performance standards are critical in contracting.

Standard contract language is currently found in the DoD Acquisition Deskbook Supplement, *Contractor Support in the Theater of Operations*.



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Procurement Integrity Act

The Procurement Integrity Act addresses ethical conduct during the procurement process.

It has four basic provisions:

- A ban on disclosing procurement information
- A ban on obtaining procurement information
- A requirement for procurement officers to report employment contacts by or with a competing contractor
- A 1-year ban for certain personnel on accepting compensation from the contractor

Statement of Work (SOW)

The Statement of Work defines the terms and conditions of the contract with regards to contractor management and control.

Section C (SOW) provides the core information for understanding the contract. Section C is the COR's primary resource for managing the contractor. CORs should read this section very carefully.

Performance Work Statement (PWS)

The Performance Work Statement spells out specific or performance based requirements, performance measurement methods (outcome-based), how to fix performance failures, and puts the performance burden on the contractor.

Acquisition

Acquisition: The acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated.

Contingency contracting

Contingency contracting: To responsively, effectively, and legally contract for, or to contract for the providing of, the supplies, services and construction necessary to support the mission organization.

Contracting Officer

A Contracting Officer is an official who is appointed through a warrant (SF 1402), with the legal authority to enter into, administer, and/or terminate contracts and make related determinations and findings.

A Contracting Officer can be Active and/or Reserve Component military personnel or DoD civilian personnel.

There are three types:

- Procuring Contracting Officer (PCO) - Decision maker who sets specifications and standards
- Administrative Contracting Officer (ACO) - writes and administers contracts
- Terminating Contracting Officer (TCO) - closes out contract to completion and termination

Contracting Officer's Representative

Person designated in writing as the eyes and ears of the Contracting Officer and liaison with the contractor.

Regulations

These are the major documents on Contractor Use:

- Joint Publication 4-0, Joint Logistics, Chapter II, 18 July 2008: Describes key areas involved in planning for the use of contractors.
- Army Regulation 715-9, Contractors Accompanying the Force, 29 October 1999: Provides the policies, procedures, and responsibilities for using deployed contractors.
- Department of the Army Pamphlet 715-16, Contractor Deployment Guide, 27 February 1998: Describes current policies and procedures affecting deployed contractors.
- Field Manual 3-11.21, Contractors on the Battlefield, January 2003: Provides guidance in developing plans for managing and supporting contractors on the battlefield.

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Recent Contracting in Haiti

Responding to the devastating 7.0 earthquake on 12 January 2010, the Expeditionary Contracting Command (ECC) identified and solved potential problems during their contingency deployment in support of Operation Unified Response, the Haiti humanitarian assistance and disaster relief mission.

They did so by using lessons learned from previous deployments, contracting for supplies, services, and equipment to support military and Federal responders as well as Haitians affected by the earthquake.

They also established contracting reach-back support stateside, bringing in Logistics Civil Augmentation Program planners in the beginning stages, which allowed contingency contracting officers to concentrate on immediate onsite requirements and leave complex actions for the contracting center stateside.

Brigadier General Joseph L. Bass
CG of the Expeditionary Contracting Command
Haiti Humanitarian Assistance and Disaster Relief
Mission

"We took advantage of a lot of lessons learned from previous deployments. We didn't do these types of things early on in Operation Iraqi Freedom or Operation Enduring Freedom."



However, we learned those lessons and brought these capabilities to Haiti early on. We were very proactive from the beginning, deploying the right personnel mix needed to provide quality assurance, legal, policy, and other areas where we could address issues on the front end rather than after they've been done.

Just as we gathered lessons learned from previous deployments, we have gathered some from the Haiti deployment that should help us the next time we deploy."



The Expeditionary Contracting Command helped to deliver more than 15 million meals to the Haitian people in a 10-day period and established distribution points for local families to receive 25 and 30-pound bags of rice, beans, and cooking oils.

Contracting efforts also helped turn dangerous rudimentary shelters into safer areas with tents and routine delivery of water and meals.

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Key Points

The following key points on Contracting concepts and activities were discussed:

- Goals
- Contract Phases
- Acquisition Team
- Terminology
- Recent Haiti contracting

Remember that Contracting is the overall process used to obtain supplies, services, and construction in support of military operations.

The following key points on Contracting concepts and activities were discussed: Goals, Contract Phases, the Acquisition Team, Contract Terminology, and Recent Haiti contracting examples.

Remember that Contracting is the overall process used to obtain supplies, services, and construction in support of military operations.

KEY POINTS



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Quick Challenge

QUICK CHALLENGE



What is the most misunderstood aspect about contractors, their employees, and area commanders?

Select the best answer and then select Submit.

A. Who manages the invoices for payment?



B. Commanders do not have administrative control over contractor employees; only contractors directly manage and supervise their employees.

C. Contractors answer to no one except the corporate headquarters.

D. Commanders are not responsible for contractor's security.

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Purpose



Types

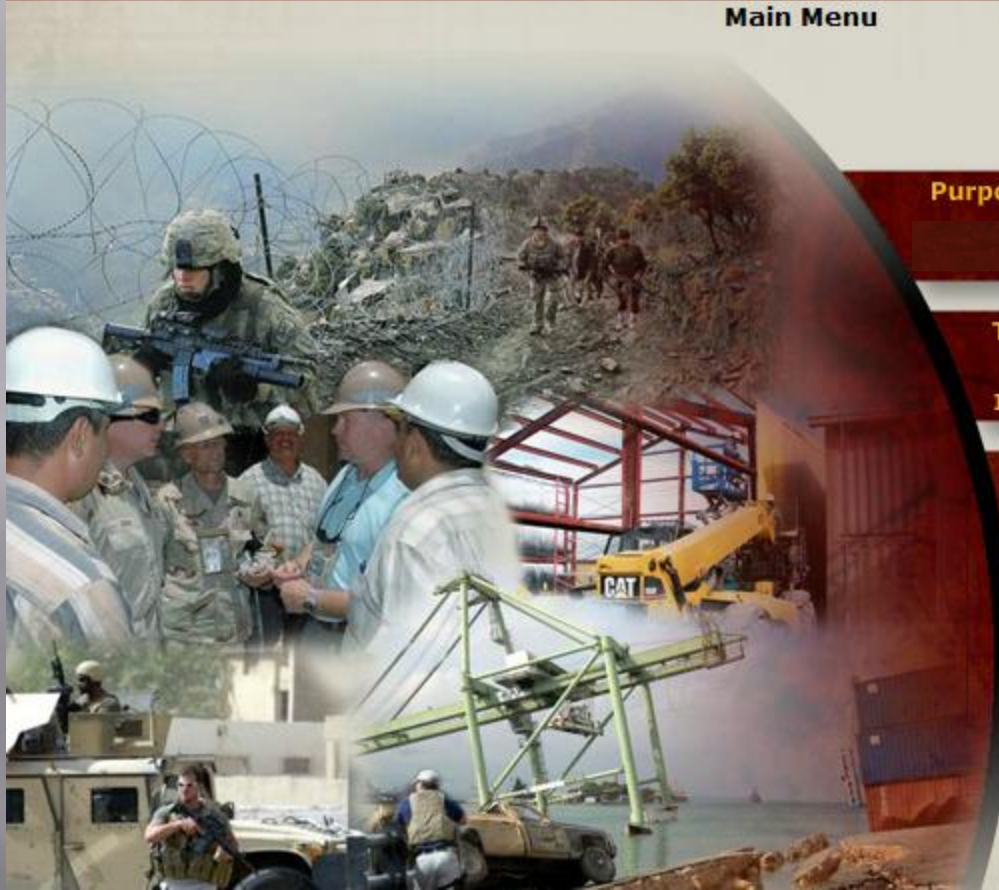


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Types of Contractors

There are basically three different types of contractors on today's battlefield to include:

- Theater Support contractors - local vendors, providing goods, services and minor construction to meet the operational commander's needs.
- External support contractors - work for contracts awarded by contracting officers serving under the command and procurement authority of supporting headquarters outside the theater.
- System contractors - provide life-cycle support for weapons and other systems.

Other types of contractor support designed to increase combat potential within peacetime resource allocations include:

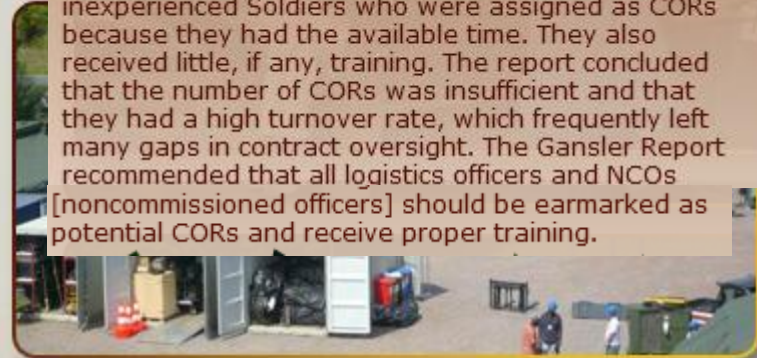
- Host Nation support - through government to government agreements.
- The Logistics Civil Augmentation Program IV (LOGCAP IV) - a U.S. Army initiative for peacetime planning for the use of civilian contractors in wartime and other contingencies, i.e., Kellogg, Brown and Root (KBR) DynCorp, and Fluor Intercontinental Inc.; managed by the Army Materiel Command Field Support Command.

Contractor support is categorized by the type of support that they provide on the battlefield and, more importantly, by what type of contracting organization has contracting authority over them.

Contracting brings an increased focus of combat power in theater, reduces the risk to Soldiers, and reduces the cost to the Government.

When the Gansler Report was issued, over 70 fraud cases were open for investigation, involving about 100 personnel. Confirmed bribes totaled an excess of 15 million dollars. People with relatively little training or background in Government contracting had committed the significant majority of fraudulent actions. They were either CORs or had other duties related to the contracting process. Many of the investigations involved Soldiers who did not really understand contract law.

Many were typically assigned their COR responsibilities as an extra duty and possessed no COR-related experience. The result was that CORs were often inexperienced Soldiers who were assigned as CORs because they had the available time. They also received little, if any, training. The report concluded that the number of CORs was insufficient and that they had a high turnover rate, which frequently left many gaps in contract oversight. The Gansler Report recommended that all logistics officers and NCOs [noncommissioned officers] should be earmarked as potential CORs and receive proper training.



Monitoring through additional oversight and periodic reviews ensures that the objectives of contracts are met while alleviating concerns of fraud, waste, and abuse.

In Kuwait, LOGCAP now means more than the LOGCAP contract. It also refers to the team of logistics support officers and logistics management specialists who support all contracts in the Kuwait area of operations.

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Kinds of Contracts

There are basically three kinds of contracts:

- Supply (computers, lumber, fuel, etc.)
- Service (transportation, latrine cleaning, labor, etc.)
- Construction (construction, alteration, or repair of real property; buildings, airfields, and roads)

The Logistics Civil Augmentation Program, with LOGCAP IV, employs a new strategy developed by the Army Sustainment Command, in consultation with its higher headquarters, the Army Materiel Command and combatant commanders, who represent LOGCAP's ultimate consumers; U.S. service members and civilians in the field.

Performance contractors will now compete for individual LOGCAP task orders, fostering a competitive situation designed to control costs and enhance quality.

Splitting the planning and performance contracts allows the Army to manage LOGCAP actions more effectively. Performance contractors will compete for individual LOGCAP task orders, fostering a competitive situation designed to control costs and enhance quality.



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What is LOGCAP?

The Logistics Civil Augmentation Program (LOGCAP) is the pre-planned use of global corporate resources to support contingency operations accomplished through the augmentation of combat support/combat service support (CS/CSS) force structure capabilities.

LOGCAP contractors perform selected services to support U.S. forces in support of DoD missions.

This use of contractors in a theater of operations allows the release of military units for other missions or to fill support shortfalls.

Presently, LOGCAP IV provides the Army with additional means to adequately support the current and programmed forces in the following areas:

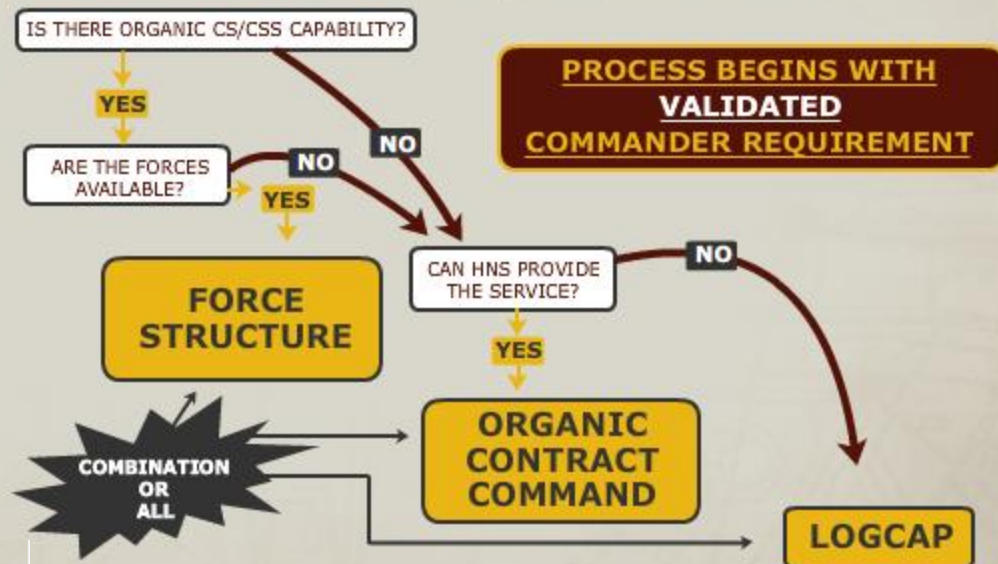
- **Supply Operations**
- **Field Services**
- **Other Operations and Services**

When planning identifies crucial logistical support that is needed but not immediately possible from U.S. Forces or Host Nation sources, LOGCAP contractors can quickly provide those needed capabilities and services.

With LOGCAP IV, the Army awarded three performance contractors to deliver the services, instead of just one as under LOGCAP III.

Decision: When to Use LOGCAP

LOGCAP Requirement Validation: Course of Action (COA) Prioritization



SIMILAR PROCESS FOR NON-DOD REQUIREMENTS..... Dept of State, ISG, MND

These services can involve augmenting supply operations, providing field services, maintenance, engineering and construction expertise, power generation, and even physical security.

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Supply Operations

All classes of supply (Class I to Class IX) operations can be supported or augmented by LOGCAP contractors.

Field Services

Field services can include:

- Base Camp operations
- Laundry & bath
- Clothing exchange and repair
- Food services
- Sanitation and waste management
- Billeting
- Facilities management
- Morale & Welfare (MWR)
- Information management
- Personnel support

Other Operations and Services

Specialized contractors can provide augmentation or assume these services:

- Maintenance
- Transportation and Motor Pool
- Medical services
- Engineering and Construction
- Signal
- Retrograde
- Power generation and distribution
- Standard Army Management Information Systems (STAMIS)
- Physical security

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What is AFCAP?

The Air Force Contract Augmentation Program (AFCAP) is a contingent tool to provide Civil Engineer & Services personnel with a force multiplier by leveraging use of the commercial sector in meeting urgent mission requirements.

The AFCAP tool is only available for contingency situations and designed for rapid design and/or construction, service contracts, and logistics and commodity solutions such as:

- Logistics build-up support materials, equipment, and supplies
- Power generation and grid support
- Specialized Engineering services
- Water Production
- Site Preparation
- Vertical Construction

With both the LOCAP and AFCAP contracts, the main advantage to their use is speed, flexibility, and freeing military assets to continue the mission.



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Disadvantages

LOGCAP and AFCAP disadvantages include:

- Personnel are classified as neither combatants nor non-combatants - considered civilians authorized to accompany the force.
- Personnel cannot engage in activities inconsistent with their personnel classification status.
- May/may not be armed per Combatant Commander's directives.
- They remain potential targets of enemy action.
- Uniform appearance among employees, but Army Combat Uniforms (ACUs) or look-alike uniforms are at the discretion of the Combatant Commander.
- Use not appropriate for all scenarios such as forced entry, mine clearing, or CBRN environments.
- Contractor personnel Command and Control is outside of current U.S. doctrine.



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Key Points

The following key points on Contracting concepts and activities were discussed:

- Types of Contractors
- Kinds of Contracts
- LOGCAP
- AFCAP
- Disadvantages

Remember that the present Logistics Civil Augmentation Program IV (LOGCAP IV) involves three competing companies instead of a single source contractor.

KEY POINTS



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Quick Challenge

QUICK CHALLENGE



Identify the three basic kinds of contracts.

Select the best answer and then select Submit.

A. Service, Transportation, and Security

B. Supply, Retrograde, and Construction



C. Supply, Service, and Construction

D. Construction, Service, and Host Nation Support

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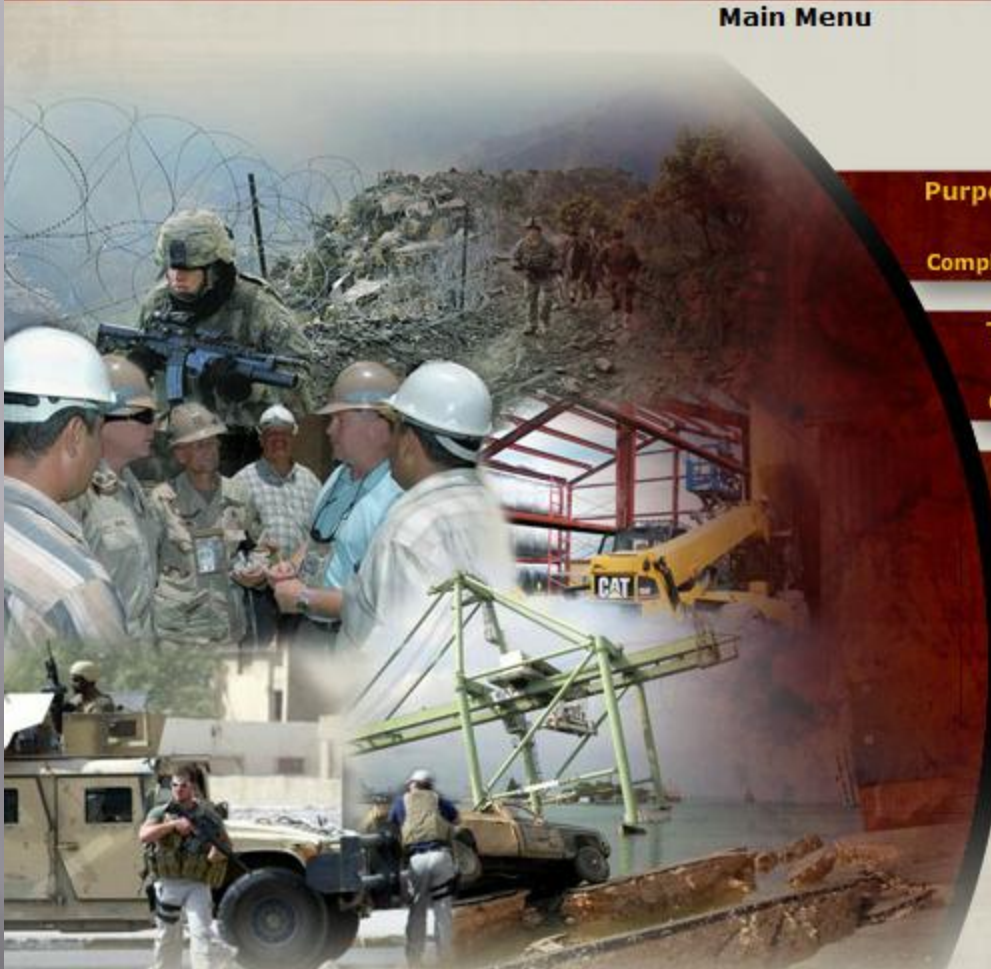
Types

Complete



COR

Incomplete



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The Contracting Officer's Representative

A COR is appointed by a Contracting Officer (KO) to assist in the technical monitoring or administration of a contract.

They serve as the eyes and ears of the KO and cannot delegate their authority to others.

The COR plays an important role in reporting on performance and developing performance remedies if necessary, reviewing contract changes, and accepting (or rejecting) contract deliverables and must document everything.

Several issues such as inadequate protection in high-threat areas, crossing lines of authority, making unauthorized commitments, and accepting, but not reporting gifts must be avoided.

The FOO and COR Handbooks and Smart Card can be found in the reference section.



Contracting Officer's Representatives receive their authority only from the Contracting Officer, not from their chain of command, and their appointments and/or designations remain in effect for the life of the contract, unless they are terminated by the Contracting Officer before the contract ends.

The Contracting Officer's Representative must document everything (for example, conversations, meeting minutes, and contractor performance).

Maintaining good records is critical not only for the next Contracting Officer's Representative, but also to document contractor performance during the contract.

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GTA 90-01-016

Aug 2010

The Deployed Contracting Officer's Representative (COR)

Smartcard

Acquisition, Logistics, and Technology Integration Office



Department of the Army
ALT-IO
2221 Adams Avenue
Fort Lee, Virginia 23801-1723
https://www.alt.army.mil/portal/page/portal/oasaalt/ALT_IO



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Know Your Basic Acquisition Team:

Contracting officer:

The contracting officer is the only individual expressly authorized to enter into, administer, change, and/or terminate contracts.

Name: _____ Phone _____ E-mail: _____

Requiring activity:

The requiring activity is usually the Army unit that has a requirement for goods or services. As the COR, you will routinely interface between the requiring activity (which is most likely your own unit), the contractor, and the supported customer(s).

Name: _____ Phone _____ E-mail: _____

Resource manager (RM):

The RM provides advice and guidance to the commander and is responsible for developing command resource requirements, identifying funding sources, determining costs, acquiring funds, distributing and controlling funds, and tracking costs and obligations.

Name: _____ Phone _____ E-mail: _____

Miscellaneous personnel:

Personnel from outside the acquisition team may also be useful (e.g., base/forward operating base mayor).

Name: _____ Phone _____ E-mail: _____

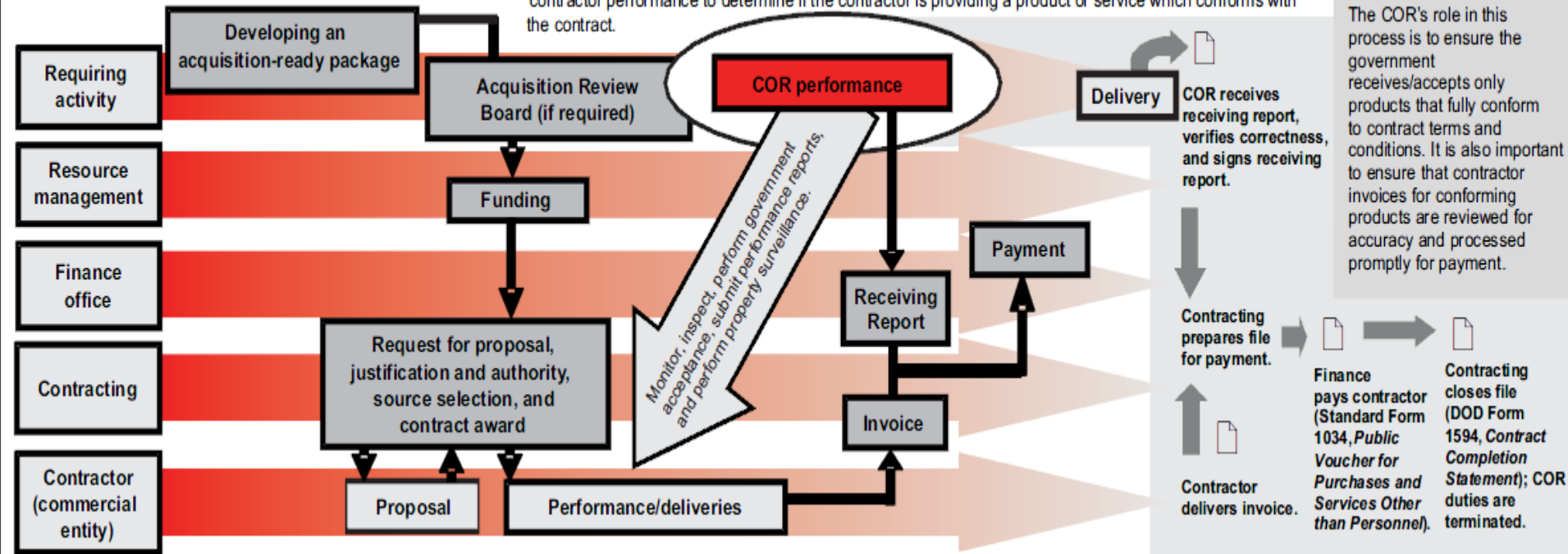
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Operational Contract Support (OCS) process:

Quality assurance surveillance plan (QASP)

The QASP details how and when the government will survey, observe, test, sample, evaluate, and document contractor performance to determine if the contractor is providing a product or service which conforms with the contract.




Reminder


The COR's role in this process is to ensure the government receives/accepts only products that fully conform to contract terms and conditions. It is also important to ensure that contractor invoices for conforming products are reviewed for accuracy and processed promptly for payment.

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Contract format: A contract is usually organized in the Uniform Contract Format and formatted into Parts I, II, III, and IV.

Section A Contract form Contains basic information such as the issuing office, address, and contract number.	Section B Supplies or services and prices/costs Contains a brief description of the supplies or services and quantity.	Section C Contracted requirement (item description/work statement) Contains a detailed description of the requirement. Read this section very carefully.	Section D Packaging and marking Provides packaging, packing, preservation, and marking requirements.	Section E Inspection and acceptance Contains inspection, acceptance, quality assurance, and reliability requirements.	Section F Deliveries or performance Specifies the time, place, and method of delivery or performance.	Section G Contract administration data Contains any required accounting, appropriation data, required contract administration information, or other instructions.	Section H Special contract requirements Contains a clear statement of any special contract requirements not included in Sections I, II, or III.	Part II Contract clauses Section I: Includes standard clauses of considerable power. Defines the rights and responsibilities of contracting parties.
Part I— The schedule							Part III List of documents, exhibits, and other attachments Section J: List of attachments, documents, and exhibits in this section (i.e., illustrations and certifications).	Part IV Representations and instructions Section K: Representations and certifications Section L: Instructions, conditions, and notices Section M: Evaluation factors for award

 **Tip:** CORs should be familiar with the content for each section of the contract they are managing.

 **Watch Out!** Do not accept any gratuities, which includes any money, credit, gift(s), anything of value, or compensation of any kind (Anti-Kickback Act of 1996 and Articles 92 and 134 of the Uniform Code of Military Justice).

Disclaimer: This Graphic Training Aid does not serve as a substitute for any law, Federal Acquisition Regulation, or any applicable DOD or Army regulation or directive. Consult your contracting officer or your organization's legal office.

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Training, references, and online resources:

Trafficking in Persons (TIP) program:

- CORs must be aware of how contractors treat their employees. As a COR monitors (not investigates) the contractor and his employees, fighting human trafficking ranks among the COR's chief priorities. In deployed environments, CORs are too often unaware that trafficking occurs in the midst of hundreds of local nationals and third-country nationals working on their base camps. CORs are the first line of defense in the battle against human trafficking.
- All DOD military, civilian, and DOD contractors must receive mandatory TIP awareness training.
- Every COR must receive TIP awareness training. CORs must place their certificates of completion in their COR working files.
- The military has zero tolerance for human trafficking. CORs are to report all violations to their contracting officers immediately.
- TIP awareness training available at: <http://projects.aadlcolab.org/tip/>.

Available training:

- Army Logistics University (ALU) offers both resident and on-site training for COR and OCS. For course information: http://www.almc.army.mil/ALU_COURSES/ALUCOURSES.htm
Contracting Officer Representative (4-day)
Operational Contract Support (2 weeks awards 3C ASI)
Performance Work Statements (3-day)
- Defense Acquisition University (DAU) offers COR training modules at <http://icatalog.dau.mil/onlinecatalog/tabnavcl.aspx?tab=CLC>
*CLC 106, Contracting Officers Representative with a Mission Focus (8-hour online course).
CLC 206, Contracting Officer's Representatives in a Contingency Environment (3-hour online course).
*CLM 003, Ethics Training for Acquisition Technology and Logistics (2-hour online course).
*Required COR training IAW HQDA EXORD 048-10: Pre-deployment Training for CORs

Regardless of their experience or formal training, CORs will receive on-the-spot training from their supporting contracting officers.

Online resources

- ALT-IO OCS Resources and References: <https://www.us.army.mil/suite/page/599837>
- A one-stop source providing current doctrine and training material for non-acquisition professionals.
- Defense Contingency Contracting Officer Representative Handbook: http://www.acq.osd.mil/dpap/ccap/cc/docs/DCCORH_full_6-30-10.pdf - OSD's COR Handbook.
- DAU COR Community of Practice: <https://acc.dau.mil/cor>
- a central clearinghouse of knowledge and learning assets to share best practices and lessons learned.

CALL's OCS Library for Non-Acquisition Soldiers:

08-47, Deployed COR Handbook
09-48, Developing a PWS in a Deployed Environment
09-16, Battlefield Field Ordering Officer and Paying Agent
09-27, Commander's Guide to Money as a Weapon System
10-39, Unit Commander's Guide to Paying Agents
08-12, Commander's Emergency Response Program
Contracting Basics for Leaders SMARTCARD 70-01-001
CERP for Leaders SMARTCARD 90-01-017
FOO SMARTCARD 14-01-001

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Tips

- CORs should use their understanding of the local culture for successful outcomes. It takes understanding, planning, and patience when working with foreign contractors in a deployed environment. When communicating, CORs should always ensure their language is clear and concise (avoid jargon). Above all, CORs should keep a professional working relationship. Take cultural factors into account, but discern between cultural differences and excuses.
- Each COR should have a designated alternate trained to fill in the gap when the primary COR is not available (due to mission, injury, or mid-tour leave).
- The COR should know all of the acquisition team members' names, phone numbers, and e-mail addresses.
- CORs are strongly encouraged to use a digital camera to document deliveries and/or services.
- CORs must understand local finance office procedures and requirements on proper invoicing.



Watch out!

- Never underestimate the dangers of being a COR. It is likely that CORs will be required to travel outside protective areas to inspect the progress of a contract. CORs must ensure they have adequate protection.
- Both commanders and CORs must understand they do not have contractual authority to issue directions or changes to any contract.
- CORs cannot delegate their COR duties.
- The pressures to meet mission requirements can be even more intense in a contingency contracting environment than in garrison. If a COR is not vigilant, these pressures can cloud his judgment as to the right way to conduct himself and represent the U.S. and the Department of Defense (DOD). CORs must educate their leadership on how to avoid unauthorized commitments.
- Corruption is the number one threat in contracting — be vigilant.



Reminders

- CORs must always remember that payment to a contractor implies work is progressing or completed according to the contract terms and conditions. Therefore, CORs must ensure the government gets what it pays for.
- COR records are vital for determining any actions for or against a contractor—document everything.
- The COR file is a part of the official contract file and must be maintained in accordance with the contracting officer's instructions.
- Mark the contract number clearly on all documents sent to the contracting officer.
- Section C (Contracted requirement: item description/ work statement) provides the meat and potatoes for understanding the contract. Section C is the COR's primary resource for managing the contractor. CORs should read this section very carefully.

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COR files should include the following:

- A copy of the commander's nomination letter, copy of COR's letter of appointment from the contracting officer and any changes to that letter, and a copy of any termination letter.
- A copy of the contract or the appropriate part of the contract and all contract modifications.
- A copy of the applicable quality assurance surveillance plan.
- All correspondence initiated concerning performance of the contract.
- The names and position titles of individuals who serve on the contract.
- A record of inspections performed and the results of those inspections.
- Memorandums for record of minutes of any meetings and discussions with the contractor or others pertaining to the contract or contract performance.
- A copy of the surveillance schedule.
- Documentation pertaining to the COR's acceptance of performance of services, including reports and other data.

Remember: CORs should receive most of these files from their contracting officers during COR training. COR files should be considered confidential and safeguarded appropriately.

COR key duties: Monitor the contractor performance, perform inspections, verify corrected deficiencies, perform government acceptance, liaison with all parties, submit performance reports, and perform property surveillance. See the COR appointment letter for further details of COR duties.

Forms that CORs should know:

Typical contractual instruments:

- **Department of Defense (DD) Form 1155, Order for Supplies or Services**
- **Standard Form (SF) 30, Amendment of Solicitation/Modification of Contract** (common)
- **SF 44, Purchase Order-Invoice-Voucher** (pocket-sized)
- **SF 1442, Solicitation, Offer, and Award** (Construction, Alteration, or Repair)
- **SF 1449, Solicitation/Contract/Order for Commercial Items** (common)



Tip

See reverse side of this Graphic Training Aid (contracting flowchart) to learn how to use these forms. CORs must ensure their contracting officers explain what is required in managing these forms.

Typical receiving report instruments:

- **DD Form 250, Material Inspection and Receiving Report** (common)
- **Invoices used as receiving reports**
- **SF 44**
- **SF 1442**
- **SF 1449**

Typical funding instruments:

- **Air Force Form 9, Request for Purchase**
- **Department of the Army Form 3953, Purchase Request and Commitment** (common)
- **DD Form 448, Military Interdepartmental Purchase Request**

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Responsibilities

The responsibilities of the COR vary with the type of contracting and normally include the following:

- Monitor the contractor's progress and performance, including the completion of required reports or other documentation.
- Verify that the contractor has performed the technical and management requirements of the contracting according to the contracting terms, conditions, and specifications.
- Certify acceptance for the government supplies and services received.
- Maintain liaison and direct communications with the contractor and the KO.
- Recommend contracting modifications to the KO.
- Assist in meeting the government's contractual obligations to the contractor. This includes, but is not limited to, arranging to supply government-furnished equipment, facilities, and services called for in the contract.
- Provide technical interpretation of the contracting requirements.
- Maintain files and correspondence relating to the contracting performance.
- Maintain liaison and direct communications with both the contractor and the contracting officer.
- Perform all necessary inspections and verify invoices.
- When applicable, coordinating the deployment/redeployment preparation contractor employees who deploy with the force.
- Assist in contractor-employee day-to-day management to include visibility and accountability reporting, as well as other contractor operations management issues that may affect contractor or unit requirements.

Contracting Officer's Representatives receive their authority only from the Contracting Officer, not from their chain of command, and their appointments and/or designations remain in effect for the life of the contract, unless they are terminated by the Contracting Officer before the contract ends.

The Contracting Officer's Representative must document everything (for example, conversations, meeting minutes, and contractor performance).

Maintaining good records is critical not only for the next Contracting Officer's Representative, but also to document contractor performance during the contract.

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COR Prohibitions

A COR is prohibited from making unauthorized commitments, such as:

- Making any agreement with the contractor requiring the obligation of public funds.
- Making any commitments or changes that affect price, quality, quantity, delivery, or other terms and conditions of the contract.
- Encouraging the contractor by words, actions, or a failure to act to undertake new work or an extension of existing work beyond the contract period.
- Authorizing a contractor to obtain property for use under a contract.
- Interfering with the contractor's management prerogative by "supervising" contractor employees or otherwise directing their work efforts.



The Contracting Officer's Representative must not perform any unauthorized commitments and may result in personal liability for the individual who makes the commitment.

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Ethical Considerations

Federal Acquisition Regulation 1.602-3 (a) defines an "unauthorized commitment" as "an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government."

The only individuals who can bind the government are warranted contracting officers and purchase cardholders acting within the limits of their delegated authority.

Gift prohibition rules clearly state to never solicit gifts of any type, regardless of their nature or dollar value, including attempted as well as contemplated kickbacks, which include any money, fees, commission, credit, gift, gratuity, thing of value, or compensation of any kind.

The Center for the Army Profession and Ethic (CAPE).

Warning

Any person who knowingly and willfully engages in conduct prohibited by [the Anti-Kickback Act] shall be imprisoned for not more than 10 years or shall be subject to a fine ... or both. (Title 41, United States Code, Section 54; Articles 92 and 134 of the Uniform Code of Military Justice [UCMJ]).

Giving or accepting a bribe is a crime punishable by a fine, imprisonment, or both. (Title 18, United States Code, Section 201; Articles 92 and 134 of the UCMJ).



**Unethical
Behavior**



The Government entrusts Contracting Officer's Representatives to properly assess and document contractor performance and maintain ethical conduct at all times. Proper military oversight minimizes conflict and is the only way that the contractor becomes fully integrated in supporting the Warfighter.

The prohibition of accepting gifts and rules on unauthorized commitments were created to help the Contracting Officer's Representative conduct him/herself in an ethical manner.

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Key Points

The following key points on the Contracting Officer's Representative role and responsibilities were discussed:

- The Contracting Officer's Representative
- Responsibilities
- Prohibitions
- Ethical Considerations

Remember that a Contracting Officer's Representative cannot delegate his/her authority to others.

KEY POINTS



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Quick Challenge

QUICK CHALLENGE



Identify two major tasks the Contracting Officer's Representative must perform within the scope of his duties.

Select the best answer and then select Submit.



A. Monitor contractor's work and document everything

B. Write proposals and supervise contract employees

C. Coordinate security with Host Nation and renegotiate when necessary

D. Conference with parties for resolution and verify invoices

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Summary

In this lesson, we have discussed the goals and purpose of Contracting, the responsibilities currently practiced by the Contracting Officer and the Contracting Officer's Representative in a deployed environment.

As a Logistics or Senior Transportation Officer, you must be familiar with the contracting process and be prepared to serve a role within the Acquisition Team staff, perhaps as a technical adviser.

Efficient Contracting and Contractor management are a crucial part of the total deployment process, and as a Senior Transportation or Logistics Officer, you must understand the contribution Contracting makes to the overall mission accomplishment.

SUMMARY



Good luck on the assessment!